

REMARKS

Applicants thank the Examiner for the thorough consideration given to the present application. Claims 36, 38-41, 43 and 44 are currently being prosecuted. The Examiner is respectfully requested to reconsider her rejections in view of the amendments and remarks as set forth below.

Information Disclosure Statement

An Information Disclosure Statement was submitted in the instant application on January 11, 2005. Also, an IDS is being submitted herewith. Notification of receipt of both of these IDS's as well as consideration of the documents cited therein are requested.

Claim Numbering

The Examiner noted that the Preliminary Amendment incorrectly indicated that claims 1-36 should be canceled. Applicants agree with the Examiner that the correct statement should have been that claims 1-35 were canceled.

Rejections under 35 U.S.C. § 102

Claims 36-38 stand rejected under 35 U.S.C. § 102 as being anticipated by Iwashita et al. (U.S. Patent 6,579,611). This rejection is respectfully traversed.

Applicants submit that the Iwashita et al. patent may not be used in a rejection because the priority date of the present application predates the date of the reference. The Examiner is referred to MPEP 706.02(f).

The Iwashita et al. reference is basically a PCT application which claims priority to a Japanese application. Since the PCT application was filed prior to November 29, 2000, the AIPA Amendments do not apply. Thus, the effective date of the reference is the 371 date which is June 1, 2000. The Examiner can also use the PCT publication date of June 8, 2000. However, the present application is a divisional application of U.S. 09/471,393 filed on December 23, 1999. In addition, the present application claims priority to a Denmark Application dated December 30, 1998. Accordingly, Applicants submit that the parent case of the present application predates the effective date of the reference and the Danish priority date of the present application further predates the reference. Accordingly, Applicants submit that the rejection under 35 U.S.C. § 102 being anticipated by Iwashita et al. is incorrect.

Claims 36-41 stand rejected under 35 U.S.C. § 102 as being anticipated by Bussard (U.S. Patent 5,281,499). This rejection is respectfully traversed.

The Bussard reference shows an embossed plastic 11 and a mirror like metallic backing 12. An adhesive layer 13 adheres the device to the substrate, such as a t-shirt or other fabric material.

Claim 36 has now amended to describe the article as forming an integrated part of the container. The Bussard device is not in any manner part of the container. It is required to be flexible to be attached to a fabric. Also, the non-metallic first layer is now described as contemporizing a diffracting optical element. A color layer is now also provided on the surface of the metal substrate to enhance the visual effects, with the non-metallic layer being provided on the

surface of the color layer. This refers to layers 7, for example in Figures 6 and 7 of the present application. This layer is not shown in Bussard. The claim is additionally allowed because the claim also describes the surface relief as being performed by a rolling process or a stamping process. Applicants submit that the invention described in claim 36 is not shown in any manner by Bussard.

Rejection under 35 U.S.C. § 103

Claims 36-44 have been rejected under 35 U.S.C. § 103 as being obvious over Stephanek (U.S. Patent 5,902,436) in view of Bussard or Iwashita et al. or Mallik et al. (U.S. Patent 5,085,514). This rejection is respectfully traversed.

First, the Iwashita et al. reference has been disqualified as indicated above and will not be considered in regard to this rejection.

The Examiner describes the Stephanek reference as teaching a metal container, a polymer adhesive layer, metallized holographic image transfer from a plastic support, and adhered to the substrate via the adhesive layer and a transparent protective coating. The Examiner admits that the reference does not teach that the decorative images are provided as a print or color layer on the metal substrate between the substrate and the first layer of non-metallic material or that the decorative container includes an image presented by a diffraction pattern or layers of different refractive index. The Examiner feels it is known in the art that substrates are provided with surface relief patterns may be further coated to provide diffraction pattern effects. Further, the use of holographic images over printed or decorative coatings on metal substrates to provide decorative products

is alleged to be well-known as taught by Bussard or Mallik et al. and therefore would be obvious to one skilled in the art.

Applicants submit that the Stephanek reference teaches a process for transferring a metallized holographic image from a polymeric support to a roll stock element. The roll stock element has an holographic image imparted thereon by laminating a metallized holographic image on the polymeric support. Subsequently, the roll stock element is delaminated from the substrate whereby the image is transferred to the aluminum roll stock element. While the reference mentions the use of the metal for use in containers, it relates to a process of transferring a holographic image on a polymeric support to a metal stock by first laminating an adhesive on the substrate and then delaminating the substrate from the image so that the image is left on the roll stock.

Amended claim 36 does not use an adhesive layer for bonding any of the individual layers to each other. Neither does the claimed article pertain to the transferring of images from one substrate to another by lamination and subsequent delamination. Instead, the present invention relates to a holographic relief rolled or stamped onto an article which is part of a container. The holographic image of Stephanek is metallized and consequently not transparent. Therefore, Stephanek does not have an underlying color layer as presently claimed since it would not be visible through the metallized hologram. Further, provision of a color layer on the surface of the metal substrate in order to further decorate the article is not shown.

Claim 36 now makes it clear that the outer coat is part of a container and that a first layer of non-metallic material covers a surface relief comprising a diffracting optical element. A color layer is further provided on the surface of the metal substrate to enhance the visual effects. The surface relief is made as part of the rolling or stamping process. Applicants submit that Stephanek does not show the possibility of a color layer between the metal substrate and the non-metallic material. It also does not show the surface relief formed in the surface of a non-metallic layer.

The Bussard reference does show a diffraction grading and a plastic layer, but does not teach the possibility of a color layer between the metal substrate and the non-metallic layer. Further, the Mallik et al. reference does not teach an article which forms part of a container on a color layer between the metallic substrate and the non-metallic layer. Accordingly, Applicants submit that the combination of these references do not teach claim 36 as presently presented.

Claims 36-44 stand rejected under 35 U.S.C. § 103 as being obvious over Hori et al. (U.S. Patent 4,293,599). In view of Choquette (U.S. Patent 5,861,113) and further in view of Mallik or Iwashita et al. or Bussard. This rejection is respectfully traversed. In regard to Iwashita et al., this reference has been disqualified as indicated above.

The Examiner states that Hori et al. teaches a method of producing a surface relief pattern in a non-metallic layer coated on a substrate of metal. The Examiner admits that Hori et al. does not teach that the substrate is provided with a color layer between the surface relief layer and the substrate, or that the

surface relief is provided with a diffraction pattern. The Examiner relies on Choquette to teach that substrates provided with a surface relief pattern can be further coated. The Examiner further relies on Mallik et al. and Bussard to teach holographic images over printed or decorated coatings on substrates are known. As indicated above, Applicants further admit that Mallik and Bussard do not teach the concept of the colored layer provided between the metal substrate and a non-metallic layer.

Furthermore, Applicants submit that Hori et al. teaches a paint roller device rather than a container. Further, the surface variations of Hori et al. may be as large as 10mm and thus are not useful with regard to the replication of diffracting out elements. In view of this, Applicants submit that none of the references teach the combination of elements described in claim 36. In view of this, Applicants submit that claim 36 is allowable over this combination of references.

Claims 38-41, 43 and 44 depend from claim 36 and as such are also allowable. These claims recite other features which make these claims additionally allowable.

CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all of the claims is respectfully requested.

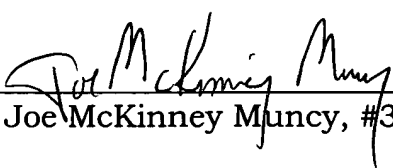
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse (Reg. No. 27,295) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants respectfully petition for a two (2) month extension of time for filing a reply in connection with the present application, and the required fee of \$450.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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0459-0753P

Attachments

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